

1 STEPHANIE M. HINDS (CABN 154284)
United States Attorney

2 THOMAS A. COLTHURST (CABN 99493)
3 Chief, Criminal Division

4 ROBERT DAVID REES (CABN 229441)
5 Assistant United States Attorney

6 1301 Clay Street, Suite 340S
7 Oakland, California 94612
Telephone: (510) 637-3680
FAX: (510) 637-3724
Email: robert.rees@usdoj.gov

8 Attorneys for United States of America

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 OAKLAND DIVISION

12 13 UNITED STATES OF AMERICA,) CASE NO. 13-CR-00131 PJH

14 Plaintiff,) **FURTHER DETENTION ORDER**

15 v.)

16 RICHARD ERIC STEWART,)

17 Defendant.)

18
19 On October 3, 2021, defendant, Richard Eric Stewart, allegedly violated the conditions of his
20 supervised released as outlined in the Petition for Arrest Warrant for Offender Under Supervision
21 ("Petition") with committing a new federal, state or local crime. Dkt. 60.

22 This matter came before the Court for a detention hearing initially on November 24, 2021,
23 whereupon the Court ordered the defendant detained. Dkt. 67. The defendant moved to reopen the issue
24 of detention based on changed circumstances, and the Court granted that motion on June 21, 2022. Dkt.
25 96. The Court then held a further detention hearing on June 29, 2022. The defendant was present and
26 represented by John Jordan. Assistant United States Attorney Robert David Rees appeared for the
27 government. At the hearing on June 29, 2022 counsel and the Probation Officer submitted proffers and
28 arguments regarding detention.

1 As a person on supervised release, defendant bears the burden of establishing by clear and
 2 convincing evidence that he will not flee or pose a danger to any other person or to the community. Fed.
 3 R. Crim. P. 32.1(a)(6). Upon consideration of the facts, proffers, and arguments presented, and for the
 4 reasons stated on the record, the Court finds that defendant did not meet his burden to show by clear and
 5 convincing evidence that he does not pose a danger to the community or that he will not flee.
 6 Accordingly, defendant must be detained pending resolution of the Petition.

7 The present order supplements the Court's findings and order at the June 29, 2022 detention
 8 hearing and serves as written findings of fact and a statement of reasons. As noted on the record, the
 9 Court makes the following findings as the bases for its conclusion. The defendant poses an ongoing
 10 danger to the community because of the dangerous character of the conduct alleged in the supervised
 11 release petition (including the display of a loaded firearm during an argument with a store clerk) and the
 12 defendant's lengthy criminal history. He also poses a risk of flight due to his flight from, and struggle
 13 with, police when they attempted to detain him at the store. The Court is not satisfied that this danger
 14 and flight risk can be prevented by the conditions of release proposed by defendant. For example, the
 15 defendant's proposed surety/custodian is not suitable given that she is apparently the registered owner of
 16 the firearm the defendant displayed. This finding is made without prejudice to the defendant's right to
 17 seek review of defendant's detention or file a motion for reconsideration if circumstances warrant it.

18 Pursuant to 18 U.S.C. § 3143(a)(1), IT IS ORDERED THAT:

19 1. The defendant shall continue to be committed to the custody of the Attorney General for
 20 confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving
 21 sentences or being held in custody pending appeal;

22 2. The defendant be afforded reasonable opportunity for private consultation with counsel;
 23 and

24 3. On order of a court of the United States or on request of an attorney for the government,
 25 the person in charge of the corrections facility in which the defendant is confined shall deliver the
 26 defendant to an authorized United States Marshal for the purpose of any appearance in connection with a

27 //

28 //

1 court proceeding.

2 IT IS SO ORDERED.

3
4 DATED: July 1, 2022


5 HON. KANDIS A. WESTMORE
United States Magistrate Judge

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28